

CITY OF MUSKEGON

CITY COMMISSION MEETING

JANUARY 27, 2009

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, January 27, 2009.

Mayor Warmington opened the meeting with a prayer from Vice Mayor Gawron after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Stephen Gawron, Commissioners Steve Wisneski, Chris Carter, Clara Shepherd, Lawrence Spataro, and Sue Wierengo, City Manager Bryon Mazade, City Attorney John Schrier, and Deputy City Clerk Linda Potter.

HONORS AND AWARDS: Mayor Warmington and the Commission congratulated Bob Burns on his retirement from The Muskegon Chronicle where he worked for 37 ½ years. Bob was recognized for his professionalism and wished the best in his future endeavors.

2009-06 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve minutes for the January 12th Commission Worksession, and the January 13th Regular Commission Meeting.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the minutes.

B. Trust Fund Grant Agreement for Smith-Ryerson Park. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: The City had received the Development Project Agreement from the State. The Mayor had signed the agreement and it was submitted to the State. The State has requested that we supply an updated resolution for the Smith-Ryerson Park Improvements approving the agreement and that the City guarantee the matching fund amount of \$158,400 (27%) of the

grant amount.

FINANCIAL IMPACT: There is no impact for the 2009 budget year as this has already been budgeted.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the resolution approving the Development Project Agreement for Smith-Ryerson Park Improvements and guarantee the matching funds, and to have the Mayor and Clerk sign the resolution.

C. Ammunition Purchase. PUBLIC SAFETY

SUMMARY OF REQUEST: The Director of Public Safety is requesting approval of the purchase of ammunition for the 2009 calendar year. The request includes both practice and duty ammunition.

Two vendors replied to our bid requests: Michigan Police Equipment, 6521 Lansing Road, Charlotte, MI; and CMP Distributors, 6539 Westland Way, Lansing, MI. Based upon the bids that were received, CMP Distributors is being recommended.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: Provided for in 2009 budget.

STAFF RECOMMENDATION: Approval of this request.

D. Assessing Services Contract. FINANCE

SUMMARY OF REQUEST: Since 1999 the City has contracted with the Muskegon County Equalization Department for property tax assessing services. Providing assessing services this manner avoids duplication of effort between the City and the County and is more efficient than staffing our own assessing department. For example, 1998 costs for supporting an in-house assessing operation were \$326,414. Inflating this figure at a conservative 4.5% annual rate to account for employee wage and benefit growth results in an estimated 2009 cost for an in-house operation of \$529,722. The 2009 base year cost of the contract with the County will be \$459,300. The contract price is adjusted annually in accordance with year-over-year changes in the City's tax base.

The proposed contract term is three years with a two year extension possible; the previous contract was for ten years. Other changes from the existing contract mostly involve operational adjustments to better meet the needs of City offices that utilize assessing data. Also, the contract provides for the possibility that Equalization Department staff may be moved from City Hall to enhance efficiency. However, this change requires discussion and formal approval of the City Commission.

FINANCIAL IMPACT: The base year cost of the contract is \$459,300.

BUDGET ACTION REQUIRED: None at this time. The contract cost is within budget expectations.

STAFF RECOMMENDATION: Approval of the contract.

E. New Cingular Wireless Amended Tower Lease Agreement. PUBLIC WORKS

SUMMARY OF REQUEST: New Cingular Wireless PCS, LLC a Delaware Corporation and the Department of Public Works have been in negotiations to amend the 1998 lease agreement for the Nims Street and Marshall Street Water Towers. The lease shall be amended to increase the current monthly rent, for two sites, from \$2,217 per month to \$4,470 per month.

The amended lease will terminate the wireless phones and phone service agreement (original value \$1,170/month) previously provided to the City and will allow New Cingular Wireless to install on each Water Tower up to a total of six antennas.

FINANCIAL IMPACT: Monthly rental will begin on March 1, 2009, at \$4,470 per month to be escalated at the rate of 3% per year annually. Revenue generated from the rental of the Tower space shall be used to offset Water Tank Maintenance Projects and purchase Wireless Phones and service.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the Amended Lease Agreement and to authorize the Mayor and Clerk to sign.

F. Request for Encroachment Agreement for 1788 Terrace Street, Rykes Bakery. ENGINEERING

SUMMARY OF REQUEST: Rouwhorst Investments, LLC has submitted an encroachment agreement application requesting your permission to attach a 28' 3" awning to the existing mansard roof which will extend over the public sidewalk.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the encroachment agreement for installing the awning as per the plan.

G. Transportation Improvements Program Submittal for 2012-2013 Projects. ENGINEERING

SUMMARY OF REQUEST: Authorize staff to submit the list of projects to the West Michigan Shoreline Regional Development Commission for inclusion in the FY 2012 – 2013 Transportation Improvement Program (TIP). Projects submitted will be considered for Federal and State transportation funding. Adoption of the resolution is required as part of the submittal to commit the local match should funds become available.

FINANCIAL IMPACT: None at this time, however, a local match will be required should we receive a grant for a particular project.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the project submittal and resolution.

Motion by Commissioner Carter, second by Commissioner Spataro to approve the Consent Agenda as read.

ROLL VOTE: Ayes: Carter, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Wisneski

Nays: None

MOTION PASSES

2009-07 ITEM MOVED FROM NEW BUSINESS:

H. Request for Encroachment Agreement for 746 W. Laketon Ave. - Wayne's Deli. ENGINEERING

SUMMARY OF REQUEST: The Bog's Corporation (DBA Wayne's Deli) has submitted an encroachment agreement application requesting your permission to replace two of the existing signs with one improved 5' by 6' sign which will extend over the public sidewalk along the north side of Laketon Avenue.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the encroachment agreement for replacing signs as per the plan, providing that they follow the supplemental conditions included in the agreement.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the encroachment agreement for replacing the signs as per the plan for 746 W. Laketon Avenue, Wayne's Deli.

ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wierengo, Wisneski, and Carter

Nays: None

MOTION PASSES

2009-08 UNFINISHED BUSINESS:

A. Concurrence with the Housing Board of Appeals Notice and Order to Demolish 254 Amity Avenue. PUBLIC SAFETY

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structure located at 254 Amity, Area 11, is unsafe, substandard, a public nuisance and that it be demolished within 30 days. It is further requested that administration be directed to obtain bids for the demolition of the structure and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

FINANCIAL IMPACT: CDBG Funds.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

Motion by Commissioner Spataro, second by Commissioner Carter to leave on the table until the second meeting in February to give Commissioner Carter further time to work with the proposed lender.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Wisneski, Carter, and Gawron

Nays: None

MOTION PASSES

B. Request to Revoke the Obsolete Property Rehabilitation Exemption Certificate at 790 Terrace. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Promised Land Associates, 3355 Merriem Dr., Muskegon Heights, was issued an Obsolete Property Rehabilitation Exemption Certificate for the property located at 790 Terrace Street. The timeline to complete the rehabilitation was one year, giving them until June 14, 2006, to do so. However, a number of unforeseen problems occurred during this time, making the applicant unable to complete the rehabilitation. The applicant then requested a time extension in November, 2007, and was granted additional time to complete the rehabilitation. The new deadline to finish the rehabilitation was August 22, 2008. The case was brought back to Commission in November, 2008, and another extension was granted, giving the certificate holder until January, 2009, to show the ability to complete the project. Total capital investment for this project was stated to be \$1,200,000 and was to include the addition of an elevator and an additional stairway, along with upgrades to the structural, mechanical, and electrical systems to meet current code requirements. To date, none of these projects have been completed.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To revoke the Obsolete Property Rehabilitation Certificate.

Motion by Vice Mayor Gawron, second by Commissioner Carter to revoke the Obsolete Property Rehabilitation Exemption Certificate for 790 Terrace.

ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Wisneski, Carter, Gawron, and Shepherd

Nays: None

MOTION PASSES

2009-09 NEW BUSINESS:

A. Proposed Water Bond Refunding. FINANCE

SUMMARY OF REQUEST: The bond rating on the City's water system was recently upgraded by Standard & Poor's from A- to AA-. This, combined with the current interest rate environment, affords us the opportunity to refund two currently outstanding water system debt issues and achieve significant interest savings. It is proposed that \$5,815,000 of Series 1999 and \$925,000 of Series 1993 bonds be refunded at this time. A recent analysis shows that these bonds can be refunded at today's lower interest rates with present value savings to the City of \$390,930. This equates to 5.80% of the outstanding principal, or \$41,501 average annual savings over the remaining life of the bonds. A general rule of thumb is that PV savings should equal at least 2% of bond principal in order to proceed with a refunding.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of the ordinance to initiate and authorize the proposed bond refunding. A second commission action (sales resolution) will be required to complete the transaction. If numbers change to the extent the refunding no longer makes economic sense, the plug can be pulled at that time.

Motion by Commissioner Spataro, second by Commissioner Carter to approve the proposed water bond refunding by approving the ordinance to initiate and authorize the proposed bond refunding.

ROLL VOTE: Ayes: Warmington, Wierengo, Wisneski, Carter, Gawron, Shepherd, and Spataro

Nays: None

MOTION PASSES

B. Towing Contract. PUBLIC SAFETY

SUMMARY OF REQUEST: Proposals have been accepted for the towing contract with the City. This contract will go into effect on February 1, 2009. Proposals were submitted by the following companies:

1. All Pro Towing and Recovery, 2930 E. Apple, Muskegon 49442
2. Baxter's Towing and Storage, 5333 Airline, Muskegon 49444
3. Campbell's Towing, 2462 South Getty, Muskegon Heights 49444
4. Central Towing, 710 Alberta, Muskegon 49441
5. Reliable Towing, 1288 Ninth Street, Muskegon 49440

Based upon the proposals that were submitted, approval of a contract with Campbell's Towing, 2462 South Getty, is being recommended.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: Approval of this request.

Motion by Commissioner Carter, second by Vice Mayor Gawron to approve the towing contract with Campbell Towing, 2462 S. Getty.

ROLL VOTE: Ayes: Wierengo, Wisneski, Carter, Gawron, Shepherd, and Spataro

Nays: Warmington

MOTION PASSES

C. Commercial Redevelopment Tax Abatement Districts Policy.
PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To approve the Commercial Redevelopment Tax Abatement Districts Policy for the City of Muskegon.

FINANCIAL IMPACT: Qualified commercial rehabilitation and redevelopment projects would be eligible for tax exemptions under Michigan Public Act 255 of 1978. The abatements would be available to restored, replacement and new facilities in designated areas in the city. Restored and replacement facilities would be able to freeze the property tax at its pre-rehabilitated value, effectively allowing the rehabilitation to be property tax free, with the exception of school operating taxes, for up to 12 years. New facilities would have their millages cut in half, except state education tax, and levied against the current taxable value of the building, for up to 12 years.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the Commercial Redevelopment Tax Abatement Districts Policy.

Motion by Commissioner Spataro, second by Vice Mayor Gawron to approve the Commercial Redevelopment Tax Abatement Districts Policy as described.

ROLL VOTE: Ayes: Wisneski, Carter, Gawron, Shepherd, Spataro, Warmington, and Wierengo

Nays: None

MOTION PASSES

D. Engineering Services Agreement with Sidock Group to Evaluate the Seawall at the Site Known as the Amoco Property. ENGINEERING

SUMMARY OF REQUEST: Authorize staff to enter into an engineering services agreement with Sidock Group out of Muskegon to provide a comprehensive evaluation of the existing seawall as well as present alternatives on how to address the failure in a portion of the existing wall. The evaluation will take into account three main possibilities:

1. Removal of the entire seawall and replacement with rip rap.
2. Repairing/replacing the failed sections and reinforcement of the sections that did not fail.

3. A combination of the above alternatives.

Sidock's proposal was comprehensive and contained a good understanding at a reasonable fee of \$7,200. The other two proposals were submitted by Prein & Newhof (\$7,987) and Brechting (\$3,135). Brechting's proposal considers only repairing the existing seawall.

FINANCIAL IMPACT: The engineering fee of \$7,200 for the study/evaluation phase at this time.

BUDGET ACTION REQUIRED: None, the cost is budgeted for.

STAFF RECOMMENDATION: Authorize staff to enter into an agreement with Wade Sidock Group.

Motion by Vice Mayor Gawron, second by Commissioner Carter to authorize staff to enter into an agreement with Wade Sidock Group for the evaluation of the seawall at the site known as the Amoco Property.

ROLL VOTE: Ayes: Carter, Gawron, Shepherd, Spataro, Warmington, Wierengo, and Wisneski

Nays: None

MOTION PASSES

E. Terminate the Arena Management Contract. CITY MANAGER

SUMMARY OF REQUEST: To confirm the termination of the operations management contract with Arena Management Group (AMG). Notification of the termination has been sent to AMG, pursuant to the contract.

FINANCIAL IMPACT: None.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To affirm the termination of the operations management contract with AMG.

Motion by Vice Mayor Gawron, second by Commissioner Spataro to affirm the termination of the operations management contract with AMG for the operation of the L. C. Walker Arena.

ROLL VOTE: Ayes: Gawron, Shepherd, Spataro, Warmington, Wierengo, Wisneski, and Carter

Nays: None

MOTION PASSES

F. Arena and Concession Management Agreements. CITY MANAGER

SUMMARY OF REQUEST: To enter into agreements with J. S. Hockey Enterprises, Inc. to manage the L. C. Walker Arena and to manage concession within the facility.

FINANCIAL IMPACT: The agreements will operate under the same terms and

conditions of the previous agreements.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the agreements and authorize the Mayor and Clerk to sign them.

Motion by Commissioner Spataro, second by Commissioner Shepherd to approve the agreements and authorize the Mayor and Clerk to sign them regarding the J. S. Hockey Enterprises management of the L. C. Walker Arena and the concessions within the facility.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Wierengo, Wisneski, Carter, and Gawron

Nays: None

MOTION PASSES

G. Assignment of Ground Lease – 1601 Beach Street. CITY MANAGER

SUMMARY OF REQUEST: To approve the assignment and assumption of the ground lease at 1601 Beach Street from J. P. Lawrence, LLC to CJ's on the Beach, LLC.

FINANCIAL IMPACT: None, terms of the lease remain the same.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To approve the request and authorize the Mayor and Clerk to sign the appropriate documents.

Motion by Vice Mayor Gawron, second by Commissioner Wierengo to approve the assignment and assumption of the ground lease at 1601 Beach Street from J. P. Lawrence, LLC to CJ's on the Beach, LLC.

ROLL VOTE: Ayes: Spataro, Warmington, Wierengo, Wisneski, Carter, Gawron, and Shepherd

Nays: None

MOTION PASSES

I. Concurrence with the Housing Board of Appeals Notice and Order to Demolish the Following: PUBLIC SAFETY

1305 Jefferson Street – Garage (Area 10)

922 S. Getty Street

616 Catherine Avenue (Area 11)

355 W. Grand Avenue (Area 11)

267 Iona Avenue – Garage (Area 11)

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structures are unsafe, substandard, a public nuisance and that they be demolished within 30 days. It

is further requested that administration be directed to obtain bids for the demolition of the structures and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

FINANCIAL IMPACT: CDBG Funds.

BUDGET ACTION REQUIRED: None.

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

Motion by Commissioner Carter, second by Commissioner Spataro to concur with the Housing Board of Appeals notice and order to demolish, 1305 Jefferson Street garage, 922 S. Getty Street, 616 Catherine Avenue, 355 W. Grand Avenue, and 267 Iona Avenue garage.

ROLL VOTE: Ayes: Warmington, Wierengo, Wisneski, Carter, Gawron, Shepherd, and Spataro

Nays: None

MOTION PASSES

ANY OTHER BUSINESS: Various comments were made.

ADJOURNMENT: The City Commission Meeting adjourned at 6:27 p.m.

Respectfully submitted,

Ann Marie Becker, MMC
City Clerk